

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

AMERICAN INSURANCE COMPANY a/s/o
MARIAH CAREY, and SINCLAIR C.S. BEECHAM,

Plaintiff,

- against -

CORN ASSOCIATES, LLC, THE FRANKLIN TOWER
CONDOMINIUM, KATZ METAL FABRICATORS, INC.,
OLYMPIC PLUMBING AND HEATING III CORP.,
and SAMCO PLUMBING, INC.,

Defendants.

X

Docket No.: 07 CIV 8604
(WHP) (AJP)

AFFIRMATION IN
OPPOSITION TO
DEFENDANT KATZ
METAL FABRICATORS'
MOTION TO DISMISS

X

JARED T. GREISMAN, an attorney duly admitted to practice law in the State of New York, hereby affirms the following to be true under the penalties of perjury.

1. That I am a Partner with the law firm of WHITE, FLEISCHNER & FINO, LLP, counsel for defendant, THE FRANKLIN TOWER CONDOMINIUM ("Franklin Tower") and as such am fully familiar with the facts and circumstances of this action.

2. That I submit this affirmation in opposition to defendant, KATZ METAL FABRICATORS, INC.'s ("Katz") motion for an Order dismissing the action on the grounds that Plaintiffs' claims were not asserted within the time prescribed by the applicable statute of limitations.

3. Franklin Tower opposes co-defendant Katz' motion to the extent that its assertion of the statute of limitations defense is inapplicable with respect to Franklin Tower Condominium's Cross-Claims in contribution and indemnification, as the statute of limitations for the third party actions has not begun to run. Accordingly, Franklin Tower's

cross claims against Katz must remain. *McDermott v. New York*, 50 N.Y.2d 211 (N.Y. 1980);
Bunker v. Bunker, 80 A.D.2d 817 (N.Y. App. Div. 1st Dep't 1981).

Dated: New York, New York
July 15, 2008

Respectfully submitted,

WHITE FLEISCHNER & FINO, LLP

By:



Jared T. Greisman (JG-6983)
Attorneys for Defendant
The Franklin Tower Condominium
61 Broadway - 18th Floor
New York, New York 10006
(212) 487-9700
Our File No.: 179-13150-PAF/JTG

TO:

Richard S. Kaye, Esq.
Murphy & Higgins, LLP
Attorneys for Defendant
Katz Metal Fabricators, Inc.
One Radisson Plaza
New Rochelle, NY 10801
(914) 712-1100

Robert W. Phelan, Esq.
Cozen O'Connor
Attorneys for Plaintiff
45 Broadway - 16th Floor
New York, NY 10006
(212) 509-9400
(866) 850-7490 (Fax)

Corn Associates, LLC
Defendant
36 Chambers Street - Suite 704
New York, NY 10007

Samco Plumbing, Inc.
Defendant
36-20 13th Street
Long Island City, NY 11106

